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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,903	04/03/2002	Franck Abelard	PF390066	6844
Joseph S Tripoli Thomson Multimedia Licensing Patent Operations CN 5312 Princeton, NJ 08543-0028				
7590 06/24/2009			EXAMINER	
DANG, HUNG Q				
ART UNIT			PAPER NUMBER	
2621				
MAIL DATE			DELIVERY MODE	
06/24/2009			PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/089,903

**Applicant(s)**

ABELARD ET AL.

**Examiner**

Hung Q. Dang

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Reexamination***

In view of the Appeal Brief filed on 03/10/2009, PROSECUTION IS HEREBY REOPENED. However, new grounds of rejections are applied as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621

### ***Response to Arguments***

Applicant's arguments filed 03/10/2009 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaeger (US Patent 6,345,028), Naimpally (US Patent 5,619,337), and Ogino (US Patent 5,852,467).**

Regarding claim 1, Jaeger discloses a method for recording data in a digital video processing device connectable to a recording medium, comprising the steps of: receiving a plurality of data packets, each data packet being associated with one of N data signals (column 5, lines 29-40; column 8, lines 41-46); providing N ( $N > 1$ ) buffers for receiving respectively packets corresponding to one of N data signals (column 3, lines 52-58; column 5, lines 29-40; column 6, lines 12-20 – *wherein the memory area that stores the original tracks or signals is interpreted to comprise N buffers at least virtually*); monitoring a total sum quantity of data stored in the buffer (column 3, lines 52-58; column 5, lines 29-40; column 6, lines 12-20); and triggering a writing process of the data contained in the plurality of buffers to the recording medium (column 5, line 46 - column 6, line 20).

Jaeger does not disclose each data packet being associated with one of N packet identifiers; and triggering a writing process of the data contained in the plurality of buffers to the recording medium when said total sum quantity of data reaches a

predetermined level, said predetermined level being dependant on at least one characteristic of the recording medium.

Naimpally discloses receiving a stream of data packets, each data packet being associated with one of N packet identifiers (column 3, lines 9-15; column 7, lines 26-39; column 8, lines 5-32).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the teachings of Naimpally into the method disclosed by Jaeger in order to receive and record one or more programs from an MPEG-2 transport stream thus making the method compatible with well established existing standards.

However, Jaeger and Naimpally do not disclose triggering a writing process of the data contained in the plurality of buffers to the recording medium when said total sum quantity of data reaches a predetermined level, said predetermined level being dependant on at least one characteristic of the recording medium.

Ogino discloses triggering a writing process of the data contained in the buffer area to the recording medium when the total sum quantity of data in the buffer area reaches a predetermined level, said predetermined level being dependent on at least one characteristic of the recording medium (column 4, lines 45-48; column 5, lines 29-47).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the teachings of Ogino into the method disclosed by Jaeger and Naimpally in order to keep the buffered data from being lost thus enhancing the reliability of the method.

Claim 5 is rejected for the same reason as discussed in claim 1 above.

**Claims 2-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaeger (US Patent 6,345,028), Naimpally (US Patent 5,619,337), and Ogino (US Patent 5,852,467) as applied to claims 1 and 5 above, and further in view of Yoneda et al. (EP 0 841 819).**

Regarding claim 2, see the teachings of Jaeger, Naimpally, and Ogino as discussed in claim 1 above. However, Jaeger, Naimpally, and Ogino do not disclose wherein the predetermined level corresponds to a size of a data recording unit on the recording medium, minus a quantity of space reserved to service information.

Yoneda et al. discloses a predetermined level when the buffered data are recorded on a recording medium corresponds to the size of a data recording unit on the recording medium, minus the quantity of space reserved to service information (column 47, lines 15-20, 33-54).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the buffering means disclosed by Yoneda et al. into method disclosed by Jaeger, Naimpally, and Ogino because the buffering means taught Yoneda et al. uses an internal buffer of small capacity, so that the quantities of coded audio and video information temporarily stored in these buffers are reduced (Yoneda et al.: column 49, lines 17-23).

Regarding claim 3, Jaeger also discloses wherein the writing step comprises the writing of the data in the different buffers to a same recording unit (column 5, line 46 - column 6, line 20).

Regarding claim 6, Yoneda et al. also disclose a predetermined level when the buffered data are recorded on a recording medium corresponds to the size of a data recording unit on the recording medium (column 47, lines 15-20, 33-54).

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaeger (US Patent 6,345,028), Naimpally (US Patent 5,619,337), Ogino (US Patent 5,852,467), and Yoneda et al. as applied to claims 1-3, and 5-6 above, and further in view of Deo et al. (US Patent 6,304,914).**

Regarding claim 4, see the teachings of Jaeger, Naimpally, Ogino, and Yoneda et al. as discussed in claim 3 above. However, Jaeger, Naimpally, Ogino, and Yoneda et al. do not teach the step of writing a header into said recording unit, said header indicating for the data from each buffer: the corresponding packet identifier, the size, and location of the data in the recording unit.

Deo et al. teach the concept of storing more than one data packets destined for the same address by appending them together to produce the compressed data packet which includes a master header (column 1, lines 52-67). The master header comprises the identifiers, the size and the location of individual data packets in the produced packets (column 9, lines 39-48).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the concept of combining small data packets into larger data packets with a header storing the identifiers, the size and the location of individual data packets in the produced packets taught by Deo et al. into the digital video recording system taught by Jaeger, Naimpally, Ogino, and Yoneda et al. to produce a

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compact packet since, if used in wireless communication, would save a lot of bandwidth (Deo et al.: column 1, lines 29-32).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Q. Dang whose telephone number is (571)270-1116. The examiner can normally be reached on IFT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hung Q Dang/  
Examiner, Art Unit 2621

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621